

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

JOHN LAWRENCE,)
Plaintiff,)
VS.) No. 05-1011-T-An
BENTON COUNTY, TENNESSEE,)
et al.,)
Defendants.)

ORDER GRANTING MOTION FOR CONTINUANCE FOR PLAINTIFF
TO RESPOND TO MOTION FOR SUMMARY JUDGMENT

On May 5, 2005, Defendant Bank of Camden filed a motion for summary judgment. Plaintiff has filed a response to motion for summary judgment and/or motion for continuance [Docket #s 9 & 10] in which he seeks additional time in which to conduct discovery before submitting a more in-depth response. Plaintiff asserts that Defendant's motion was filed before the entry of the scheduling order and before any discovery has been conducted.

"[S]ummary judgment is improper if the non-movant is not afforded a sufficient opportunity for discovery." Vance v. United States, 90 F.3d 1145, 1148 (6th Cir.1996) (citing White's Landing Fisheries, Inc. v. Buchholzer, 29 F.3d 229, 231-32 (6th Cir. 1994)); *accord* Plott v. General Motors Corp., 71 F.3d 1190 (6th Cir.1995). The non-movant bears

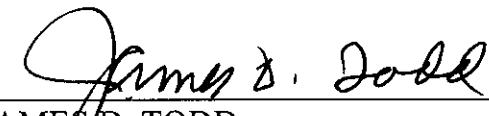
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the obligation to inform the district court of its need for discovery. Fed. R. Civ. P. 56(f). If the non-movant makes a proper showing of a need for discovery, the district court's entry of summary judgment without permitting him to conduct discovery will constitute an abuse of discretion. White's Landing Fisheries, 29 F.3d at 231-32. Instead, the court should either deny the motion "or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just." Fed. R. Civ. P. 56(f).

Because Plaintiff has shown a need for additional discovery before responding to Defendant's motion for summary judgment, Plaintiff will be given an additional sixty (60) days from the entry of this order in which to conduct discovery and to file a supplemental response.

IT IS SO ORDERED.



JAMES D. TODD
UNITED STATES DISTRICT JUDGE


DATE



Notice of Distribution

This notice confirms a copy of the document docketed as number 12 in case 1:05-CV-01011 was distributed by fax, mail, or direct printing on June 13, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT